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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,383		Stephen M. Allen	7560*37 (B1170USPCT)	2343

23416 7590 09/23/2003

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EXAMINER

BUI, PHUONG T

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/720,383	ALLEN ET AL.	
	Examiner	Art Unit	
	Phuong T. Bui	1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restriction

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I. Claims 1-5, 7-11, 13, 16 and 17, drawn to polynucleotide, chimeric gene, transformed host cell, and the first method of using the polynucleotide: a method of altering the level of expression of a cellulose synthase in a host cell.

Group II. Claims 6 and 12, drawn to a cellulose synthase polypeptide.

Group III. Claim 14, drawn to a second method of using the polynucleotide: a method of obtaining a nucleic acid fragment encoding a portion of a cellulose synthase polypeptide.

Group IV. Claim 15, drawn to a third method of using the polynucleotide: another method of obtaining a nucleic acid fragment encoding a portion of a cellulose synthase polypeptide.

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Group V. Claim 18, drawn to a fourth method of using the polynucleotide: a method of evaluating at least one compound for inhibition of cellulose synthase activity.

For each of inventions I-V above, restriction to one of the following is also required.

Therefore, election is required of one of inventions I-V and one of inventions (a)-(g).

- (a). SEQ ID No: 1 or a sequence encoding SEQ ID No: 2.
- (b). SEQ ID No: 3 or a sequence encoding SEQ ID No: 4.
- (c). SEQ ID No: 5 or a sequence encoding SEQ ID No: 6.
- (d). SEQ ID No: 7 or a sequence encoding SEQ ID No: 8.
- (e). SEQ ID No: 9 or a sequence encoding SEQ ID No: 10.
- (f). SEQ ID No: 11 or a sequence encoding SEQ ID No: 12.
- (g). SEQ ID No: 13 or a sequence encoding SEQ ID No: 14.
- (h). SEQ ID No: 15 or a sequence encoding SEQ ID No: 16.
- (i). SEQ ID No: 17 or a sequence encoding SEQ ID No: 18.
- (j). SEQ ID No: 19 or a sequence encoding SEQ ID No: 20.
- (k). SEQ ID No: 21 or a sequence encoding SEQ ID No: 22.

2. The inventions listed as Groups I-V and (a)-(k) do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: (a)-(k) represent structurally different polypeptides and the polynucleotides encoding them. Therefore, where structural

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identity is required, such as for hybridization or expression, the different sequences have different effects. The polynucleotide of Group I and the polypeptide of Group II are biologically, structurally and chemically distinct from each other. Further, the polynucleotide can be used in different methods, such as the method of claim 13 and the methods of Groups III-V. The methods use different reagents, have different steps, and/or have different results.

3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Bui whose telephone number is (703) 305-1996.

Phuong Bui
Primary Examiner
Group Art Unit 1638
September 18, 2003


PHUONG T. BUI
PRIMARY EXAMINER
9/18/03